

LOCAL WORKING GROUP ON ELECTRONIC TECHNOLOGY DISTRICT OF NEW JERSEY

Mission Statement

To advance the fair administration of justice in the exchange and use of electronic data in a cooperative and cost-effective manner for all parties when required by the rules, when consistent with local custom and practice, or mandated by court order; and to provide a forum to discuss and investigate electronic technology issues.

On September 18, 2003, in response to a recommendation in the *Report of the Joint Administrative Office / Justice Department Working Group on Electronic Technology in the Criminal Justice System*, the Board of Judges in the District of New Jersey requested that the Chair of the Court's Automation and Technology Committee form a *Local Working Group on Electronic Technology*. The membership of the *Group* is patterned after the National Working Group and will consider issues, in both civil and criminal cases, dealing with case management-electronic case filing, electronic discovery, and courtroom technology for the presentation of electronic information. The Local Group, formed in February, 2004, consists of the following members with their affiliations.

Roster

Honorable Katherine S. Hayden, Chair (Member, Court Automation Committee)(Newark)
Richard Coughlin, Federal Public Defender (Camden)
Jack O'Brien, Legal Counselor, Clerk's Office (Trenton)
Karol Corbin Walker, Past President, New Jersey Bar Association (Newark)
Professor Tristen Green, Seton Hall Law School (Newark)
Marion Percell, Assistant United States Attorney (Criminal)(Newark)
Anthony LaBruna, Assistant United States Attorney (Civil)(Newark)
Eric Marcy, Association of Criminal Defense Lawyers (Newark)
Robert Novak, Lawyers Advisory Committee (Newark)
Rosemary Alito, President, Federal Bar Association (Newark)
Alan Stein, Rutgers Law School (Camden)
Jim Murphy, Chief Deputy Clerk (IT) (Trenton)
James Martin, Assistant Attorney General for New Jersey (Civil)(Trenton)

Current Activities

The purpose of this *Group* is to consider issues arising from electronic filing and electronic discovery and to provide clarification and assistance to the bar in these areas. The *Group* is chaired by Judge Katharine Hayden. It consists of thirteen members. The U.S. Attorney's Office, Federal Public Defender, the State of New Jersey's Attorney General's Office, the Private Bar, and the District Court are represented.

The Working Group wishes to take a proactive approach and position itself to handle issues that may emerge with electronic filing and electronic discovery. To accomplish this, the *Group* was divided into six sub-committees. Given the range of experience of the members and the scope of these two subjects, it was decided that the *Group* would examine training and outreach, filings in criminal cases, the implementation of new system releases, social security cases and electronic discovery. Sub-Committee assignments were completed in May and most of the sub-committees have met and filed reports.

The Criminal Sub-committee is examining the confidentiality concerns associated with public access to documents filed in criminal cases. Beginning November 1, 2004 and pursuant to Judicial Conference approval, documents that are filed in criminal cases and are not sealed will be available electronically to the general public.

Training is essential if electronic filing is going to be successful. Registered users are required to attend some form of training in order to obtain a system login and password. Examining the various training formats that are currently available and proposing new approaches are the responsibilities of the Training Sub-Committee.

Reaching everyone who needs training on the electronic filing system is a never-ending process. While information posted on web sites and in legal publications is helpful, it doesn't always find its way to the target audience. The Outreach sub-committee was formed to help "get the word out," especially to solo practitioners. In fact, the November 16, 2004 ICLE presentation was largely a result of their efforts. The Outreach Sub-Committee will continue to explore ways to connect lawyers who practice in the federal court with e-filing training .

The new electronic filing system that was implemented in the District of New Jersey is updated to incorporate new capabilities , especially in the area of case management, and to correct problems detected in prior releases. The Implementation Sub-Committee receives briefings on these new software releases. It also serves as a mechanism for compiling suggestions for system enhancements which can be transmitted to the Administrative Office of the U.S. Courts for consideration. The bar will have an opportunity to share information with the Working Group and present questions through the District Court's e-mail address: njdworkgrp@njd.uscourts.gov.

Local Rule 26.1 (d) applies to discovery of digital information including computer-based information. Attorneys seeking discovery will need to communicate with their clients certain obligations under this new Local Rule concerning the duty to investigate and disclose. The Electronic Discovery sub-committee will review this local rule in terms of developing materials that will provide clarification and assistance for the bar.

Finally, there are separate issues associated with Social Security cases. For example, medical records that are required by the court in these types of cases are not available electronically to the public because these materials contain sensitive personal information.

The mission of the *Working Group* can best be achieved at the sub-committee level. These sub-committees meet regularly and file reports with Judge Hayden. The Board of Judges receives updates on the efforts of the Working Group from Judge Hayden. The Lawyers' Advisory Committee obtains briefings as well. In January 2005, the *Working Group* will compile a list of findings and recommendations that will be presented to the Court's Automation and Technology Committee.